THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 26th day of October,2007

W.P.No.4747 of 2007

Between:-

D. Venkata Ramana Reddy … Petitioner

and

The Primary Agricultural Cooperative Society Ltd., Rompicherla, Rompicherla Mandal, Chittoor District, represented by its President and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Proceedings of the 3rd respondent dated 12-2-2007 directing the 1st respondent to place the petitioner under suspension and also the consequential letter of the 1st respondent dated 16-2-2007 requesting the 2nd respondent to permit the 1st respondent to remove the petitioner from service as arbitrary and illegal.

While admitting the Writ Petition on 8-3-2007, this Court *prima facie* found that the removal order was passed without issuing any notice and without conducting any enquiry. Therefore, status quo as on that day was directed to be maintained. Now, a vacate petition along with a counter is filed by respondents 1 and 2 seeking to vacate the said interim order.

In the counter, it is asserted that when the Proceedings of the 3rd respondent dated 12-2-2007 were placed before the Committee for taking necessary action, on perusing the enquiry report under Section 51 of the A.P. Cooperative Societies Act and the conduct of the petitioner, it was resolved on 16-2-2007 to remove the petitioner from service instead of keeping him under suspension. Further, the committee felt that it desirable to take action after obtaining the necessary instructions from the District Level Committee, in this regard. Therefore, the proceeding dated 16-2-2007

resolving to remove the petitioner from service is not yet finalized and it is only a proposal. Further, the resolution of the committee was sent to the 2nd respondent for taking necessary action and the 2nd respondent in their meeting held on 22-2-2007, after discussing the issue at length, opined that the committee of the 1st respondent cannot directly remove the petitioner without following the procedure contemplated under the Special Byelaws of the Society and the 2nd respondent resolved that the 1st respondent shall follow Byelaw Nos.5 and 7 before taking any action against the petitioner. The said decision of the 2nd respondent was communicated by the 3rd respondent vide its letter dated 23-3-2007. Therefore, the 1st respondent issued a charge memo dated 26-2-2007 calling for explanation of the petitioner. Respondent No.1 also appointed an enquiry committee by Proceedings dated 28-2-2007. The committee issued a notice dated 2-4-2007 directing the petitioner to appear before it on 18-4-2007.

In view of the above averments in the counter, the Writ Petition itself has become infructuous and it must be deemed that the petitioner is in continuous service and he shall be continued in service till the finalization of the enquiry contemplated against him, as per law and he shall be paid arrears of salary forthwith. The regular salary of the petitioner shall be paid every month on or before 10th day of the succeeding month. However, learned counsel for respondents 1 and 2 opposed granting of salary saying that the petitioner is not entitled for such a relief in this Writ Petition. But, in the facts and circumstances of the case, I am of the considered opinion that the petitioner is entitled for his salary for the period he was kept out of employment, as per law.

With the above directions, the Writ Petition is disposed of. No order as to costs.

26-9-2007

prk